

HOUSE No. 2242

By Ms. Rogeness of Longmeadow, petition of Mary S. Rogeness
relative to certain motor vehicle operators. Transportation.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO CERTAIN MOTOR VEHICLE OPERATORS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 22 of chapter 90 of the General Laws, as
2 appearing in the 2002 Official Edition, is hereby amended by
3 striking out subsection (b).

1 SECTION 2. Said chapter 90 is hereby further amended by
2 inserting after section 22H the following section:—

3 Section 22I. (1) The registrar having good cause to believe
4 that an operator is incompetent or unqualified to retain his license,
5 after giving 10 days notice to such person in writing by registered
6 or certified mail directed to his present know address may require
7 him to submit to an examination as prescribed by the registrar.
8 Upon conclusion of the examination, the registrar may allow the
9 license to retain his license, or may suspend, deny or revoke the
10 license of the licensee, or may issue to the licensee a license sub-
11 ject to restrictions. If an examination indicates a condition that
12 potentially impairs safe driving, the registrar, in addition to action
13 with respect to the license, may require the licensee to submit to
14 further periodic examinations. The refusal or neglect of the
15 licensee to submit to an examination within 30 days after the date
16 of such notice shall be grounds for suspension, denial or revoca-
17 tion of his license by the registrar, an associate circuit or circuit
18 court. Notice of any suspension, denial, revocation or other
19 restriction shall be provided by certified mail. As used in this
20 section, the term “denial” means the act of not licensing a person
21 who is currently suspended, revoked or otherwise not licensed to

22 operate a motor vehicle. Denial may also include the act of with-
23 drawing a previously issued license.

24 (2) The examination provided for in subsection I of this section
25 may include, but is not limited to, a written test and tests of dri-
26 ving skills, vision, highway sign recognition and, if appropriate, a
27 physical or mental examination.

28 (3) The registrar shall have good cause to believe that an oper-
29 ator is incompetent or unqualified to retain his license on the basis
30 of, but not limited to, a report by: any physician, physical thera-
31 pist, occupational therapist, any chiropractor, registered nurse or
32 psychologist registered in the commonwealth.

33 Any member of the operator's family within 3 degrees of con-
34 sanguinity, or the operator's spouse, who has reached the age of
35 18, except that no person may report the same family member pur-
36 suant to this section more than 1 time during a 12 month period.
37 The report must state that the person reasonably and in good faith
38 believes the driver cannot safely operate a motor vehicle and must
39 be based upon personal observation or physical evidence which
40 shall be described in the report or the report shall be based upon
41 an investigation by a law enforcement officer. The report shall be
42 a written declaration in the form prescribed by the registry and
43 shall contain the name, address, telephone number and signature
44 of the person making the report.

45 Any physician, physical therapist, occupational therapist, chiro-
46 practor, registered nurse, psychologist or social worker licensed in
47 the commonwealth may report to the registry any patient diag-
48 nosed or assessed as having a disorder or condition that may pre-
49 vent such person from safely operating a motor vehicle. Such
50 report shall state the diagnosis or assessment and whether the con-
51 dition is permanent or temporary. The existence of physician-
52 patient relationship shall not prevent the making of a report by
53 such medical professionals.

54 Any person who makes a report in good faith pursuant to this
55 section shall be immune from any civil liability that otherwise
56 might result from making the report. All reports made and all
57 medical records reviewed and maintained by the registry under
58 this section shall be kept confidential except upon order of a court
59 of competent jurisdiction or a review of the registrar's action.
60 Such reports shall not be subject to chapter 66.

61 The registry shall keep records and statistics of reports made
62 and actions taken against drivers licensed under this section. The
63 registry shall in consultation with the department of public health
64 develop a standardized form provide guidelines for the reporting
65 of cases and for the examination of drivers under this section.
66 The guidelines shall be adopted under chapter 40A. The registry
67 shall also adopt other rules and regulations to carry out this
68 section. The registry shall provide health care professionals and
69 law enforcement officers with information about procedures
70 authorized in this section. The guidelines and regulations imple-
71 menting this section shall be in compliance with federal Ameri-
72 cans with Disabilities Act of 1990.

73 Any person who knowingly violates a confidentiality provision
74 of this section or who knowingly permits or encourages the unau-
75 thorized use of a report or reporting person's name in violation of
76 this section shall be guilty of a misdemeanor and shall be liable
77 for damages in a civil action.

78 All appeals of license revocations, suspensions, denials and
79 restrictions shall be made within 30 days after receipt of notice.

80 Any individuals whose condition is temporary in nature as
81 reported pursuant to subsection 4 shall have the right to petition
82 the registrar for total or partial reinstatement of his license. Such
83 request shall be made on a form prescribed by the registry and
84 accompanied by a statement from a health care provider with the
85 same or similar license as the health care providers who made the
86 initial report resulting in the limitation or loss of the drivers
87 license. Such petition shall be decided by the registrar within 30
88 days of receipt of the petition. Such decision is appealable pur-
89 suant to subsection 10.

90 In order to advise the registrar on medical criteria for the
91 reporting and examination of drivers with medical impairments a
92 medical-vision advisory board is hereby established within the
93 registry. The board shall be composed of 3 members appointed by
94 the registrar. The members shall be licensed physicians and resi-
95 dents of the commonwealth.

96 Of the original appointees, one shall serve for a term of 2 years
97 and 2 shall serve for terms of 4 years. Subsequent appointees
98 shall each serve for a term of 4 years or until their successors are
99 appointed and approved. Any vacancy shall be filled in the same

100 manner as the original appointment for the remainder of the term.
101 The members of the board shall receive no compensation for their
102 services and shall not hire any staff personnel but shall be reim-
103 bursed for their actual and necessary expenses incurred in the per-
104 formance of their official duties. After the first full year of
105 operation of the advisory board, the board shall meet no more than
106 4 times per year.

107 No civil or criminal action shall lie against any member of the
108 medical-vision board who acts in good faith in advising the regis-
109 trar. Good faith shall be presumed on the part of members in the
110 absence of a showing of fraud or malice.